

**Department of Community Planning and Economic Development – Planning Division**

Variances

BZZ-5534

**Date:** May 24, 2012

**Applicant:** Pam Jewson and Peter Swenson

**Address of Property:** 4116 Vincent Avenue South

**Project Name:** 4116 Vincent Avenue South Pergola

**Contact Person and Phone:** Pam Jewson, (612) 929-8395

**Planning Staff and Phone:** Shanna Sether, (612) 673-2307

**Date Application Deemed Complete:** April 17, 2012

**End of 60-Day Decision Period:** June 16, 2012

**Ward:** 13   **Neighborhood Organization:** Linden Hills Neighborhood Council

**Existing Zoning:** R1 Single Family District

**Proposed Use:** New pergola atop an existing roof-top deck over an existing attached garage

**Concurrent Review:**

- Variance to reduce the minimum required front yard setback along Vincent Avenue South from approximately 36 feet 6 inches to approximately 10 feet to allow for a new pergola over an existing roof-top deck atop an existing attached garage.
- Variance to reduce the minimum required north interior side yard setback from 6 feet to approximately 1 foot 9 inches to allow for a new pergola over an existing roof-top deck atop an existing attached garage.

**Applicable zoning code provisions:** Chapter 525, Article IX Variances, Specifically Section 525.520(1)(1) “to vary the yard requirements, including permitted obstructions into required yards not allowed by the applicable regulations.”

**Background:** The subject property is approximately 56 feet by 152 feet (8,512 square feet) and is occupied by an existing single-family dwelling with an attached garage. The single-family dwelling was constructed in 1910 and the attached garage was constructed around 1920. The garage is built into the existing hill at the front of the property and connects to the single-family dwelling through the basement. The attached garage has an existing roof-top deck. The applicants are proposing to construct a new 11 foot 9.5 inch by 13 foot 3.5 inch pergola over the existing roof-top deck. The minimum required front yard along Vincent Avenue South is 25 feet or the established setback, whichever is greater. The established setback, based on the location of the principal dwelling at 4120 Vincent Avenue South, is approximately 36 feet 6 inches. The minimum required interior side yard is 6 feet in the R1 District. The existing attached garage is located approximately 10 feet from the front property line and 1 foot 9 inches from the north interior property line. The applicants are proposing to add a pergola atop the existing

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attached garage and would therefore be located within the required front and north interior side setbacks. Therefore, the applicants are requesting a variance to allow for the construction of the pergola.

Staff has received a letter from the Linden Hills Neighborhood Council for the variances and it is attached to the staff report. Staff will forward additional comments, if any are received, at the Board of Adjustment public hearing.

**VARIANCES:** To reduce the minimum required front yard setback along Vincent Avenue South from approximately 36 feet 6 inches to approximately 10 feet and to reduce the minimum required north interior side yard setback from 6 feet to approximately 1 foot 9 inches to allow for a new pergola over an existing roof-top deck atop an existing attached garage.

**Findings as Required by the Minneapolis Zoning Code for a Variance:**

- 1. Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.**

**Both variances:** While there are several circumstances unique to the parcel of land that have not been created by the applicant, staff does not believe that they contribute to a practical difficulty in complying with the ordinance. The single-family dwelling and attached garage were constructed prior to the first zoning code in 1924. Therefore, the existing structure is located closer to the required front and interior side yards than what would be allowed today. In addition, there is a very steep slope adjacent to the public sidewalk which the attached garage has been built into. These circumstances have not been created by the applicant.

- 2. The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.**

**Both variances:** The purpose of required yards is to provide for orderly development and use of land and to minimize conflicts among land uses by providing adequate light, air, open space and separation of uses. The applicant is seeking variances to allow for the construction of a pergola over an existing roof-top patio over the garage, which are both located within the required front and north interior side yards. The proposed pergola would be open and would extend 9 feet 2¼ inches above the existing roof-top patio. Since the pergola would be built over the existing garage the pergola would sit high above the public sidewalk. The directly to the north of the property is the private drive for 4106 Vincent Avenue South. This structure is built at the north end in the middle of the block, off of 41<sup>st</sup> Street West. This home was constructed in 1908 and appears to be one of the first homes in the nearby area. This home sits approximately 15 feet higher than the project location, above the existing attached garage. The next home to the north, at 4100 Vincent Avenue South is located more than 40 feet to the proposed pergola. The adjacent structure to the south, at 4120 Vincent Avenue South is approximately 50 feet away from the proposed pergola. Staff does not believe that the proposed pergola will obstruct site lines or be overly obtrusive to adjacent properties or pedestrians along the public sidewalk. Staff believes that the applicant is proposing to use the property in a reasonable manner.

3. **The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.**

**Both variances:** Staff believes that the granting of these variances would not negatively alter the essential character of the area or be injurious to the use of other property in the vicinity. There are several homes on the block and in the surrounding area that have attached garages in the front yard with roof-top patios/decks on top of them. If granted, the proposed variances will not be detrimental to the health, safety or welfare of the public or those utilizing the property, as long as it is constructed to current building codes. The proposed pergola, if approved, will be required to receive a building permit prior to construction.

### **RECOMMENDATION**

#### **Recommendation of the Department of Community Planning and Economic Development – Planning Division:**

The Department of Community Planning and Economic Development – Planning Division recommends that the Zoning Board of Adjustment adopt the above findings and **deny** the variance to reduce the minimum required front yard setback along Vincent Avenue South from approximately 36 feet 6 inches to approximately 10 feet to allow for a new pergola over an existing roof-top deck atop an existing attached garage for the property located at 4116 Vincent Avenue South in the R1 Single-Family District.

#### **Recommendation of the Department of Community Planning and Economic Development – Planning Division:**

The Department of Community Planning and Economic Development – Planning Division recommends that the Zoning Board of Adjustment adopt the above findings and **deny** the variance to reduce the minimum required north interior side yard setback from 6 feet to approximately 1 foot 9 inches to allow for a new pergola over an existing roof-top deck atop an existing attached garage for the property located at 4116 Vincent Avenue South in the R1 Single-Family District.

#### **Attachments:**

1. Written descriptions of findings submitted by the applicant
2. Copies of e-mails and letters sent to CM Hodges and the Linden Hills Neighborhood Council
3. Copy of a letter from Linden Hills Neighborhood Council
4. Correspondence from neighbor
5. Zoning map
6. Site plan
7. Building elevation with proposed pergola
8. Photos